IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 17441 of 2007(B)

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PETITIONER:

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P.K.THANKAN, RETIRED TALUKSUPPLY OFFICER
KOTHAMALIL HOUSE, PERINGARA P.O. THIRUVALLA,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.R.RAJASEKHARAN PILLAI

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY, FOOD AND CIVIL SUPPLIES
DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. THE MANAGING DIRECTOR,
KERALA CIVIL SUPPLIES CORPORATION,
MAVELI BHAVAN, GANDHI NAGAR, KOCHI.

3. THE DEPUTY TAHSILDAR (RR), THIRUVALLA,
PATHANAMTHITTA DISTRICT.

4. THE VILLAGE OFFICER, PERINGARA VILLAGE,
THIRUVALLA.

R1,R3 & R4 BY G.P. SRI. P.N. SANTHOSH
R2 BY ADV. SRI.R.LAKSHMI NARAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE COMMUNICATION DATED 17.5.2005 FROM THE DIRECTOR, CIVIL SUPPLIES.

EXT.P2 TRUE COPY OF THE JUDGMENT DATED 19.10.2006 IN OP 614 OF 2003 OF THIS HON'BLE COURT.

EXT.P3 TRUE COPY OF THE DEMAND DRAFT DATED 15.3.2007

EXT.P4 TRUE COPY OF THE NOTICE DATED 23.5.2007 FROM THE THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

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W.P.C. NO. 17441 OF 2007

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Dated this the 19th day of July, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of loss caused to the Civil Supplies Corporation, while serving on deputation in the Corporation. I have heard counsel for the petitioner, standing counsel for Civil Supplies Corporation and also Government Pleader. It is seen from Ext.P1 that the very same amount was sought to be recover through recovery from Death-Cum-Retirement Gratuity. However, this court vide Ext.P2 judgment stated that recovery cannot be made from DCRG. It was specifically observed by this Court that it is for the respondents to take appropriate steps in accordance with law for recovery of compensation. Accordingly, revenue recovery proceedings are initiated which is under challenge on the ground that recovery is barred by limitation. According to the petitioner, recovery proceedings initiated after three years from the date of order determining the liability, that is 3.6.2002 is barred by limitation. Respondents on the other hand contended that petitioner was an

employee in the Government and for the misappropriation made by the petitioner, Government has to recover the amount from the petitioner and remit it to the Corporation. I find substance in this contention because Ext.P2 judgment shows that Corporation was not a party to Ext.P2 and recovery was initiated by the Government from the petitioner. Even though loss is caused by the Petitioner to the Government Corporation, since he was a Government employee, Government is entitled to recover the amount from it's employee, that is the petitioner. Therefore the limitation applicable has to be considered with reference to limitation period available to Government, which is admittedly 30 years. In the circumstances, the challenge against recovery on the ground of limitation is unsustainable and therefore the same is rejected. However, I feel since the matter is protracted long, petitioner can be granted waiver of interest provided entire arrears is paid on or before 31.8.2007. If payment is not made waiver of interest granted will stand cancelled.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)

Judge